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UNCLAS COLOMBO 001446

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SUBJECT: SRI LANKA: ELECTION COMMISSIONER INDICATES PRESIDENTIAL ELECTIONS BY YEAR'S END

REF: A. COLOMBO 1106

[TB](#). COLOMBO 1354

¶1. (SBU) SUMMARY: Responding to a case filed by the opposition Jathika Hela Urumaya (JHU) party with the Supreme Court (SC), Election Commissioner (EC) Dayananda Dissanayake on August 15 affirmed that President Chandrika Bandaranaike Kumaratunga's second term began in December 1999--a tacit acknowledgment that Presidential elections must take place by November 2005. The EC's statement is the first public indication of his views since debate over the end of the President's term began brewing a year ago. The SC, which will begin deliberations on the JHU petition on August 22, could still overrule the EC's interpretation. END SUMMARY.

¶2. (U) A new chapter in the continuing controversy over the end of President Kumaratunga's term--and thus the date for Presidential elections (Reftels)--unfolded when EC Dayananda Dissanayake on August 15 filed his response to the JHU petition before the Supreme Court on the subject of the election date. (Note: Constitutional rules are vague when an incumbent calls for early elections during the first term in office (Ref B). While the Constitution allows a single person to hold two six-year terms as president, the debate stems from the lack of clarity on the exact date a second term begins if early elections are called. The Opposition maintains the President's second term began when she was sworn into office in December 1999. The President and her Sri Lanka Freedom Party (SLFP) on the other hand, contend that the clock on her second term did not begin ticking until a full six years after her first term began in 1994. End Note.) Dissanayake, who is named as a defendant in the JHU case, affirmed to the Court that the President's second term began on December 22, 1999. Although Dissanayake's response stopped short of explicitly stating when elections should be held, simple arithmetic dictates elections before the end of the year. The opposition United National Party (UNP) welcomed Dissanayake's decision, stating that it proved the constitutional legality on the presidential election question.

¶3. (U) If elections are to be held this year, Dissanayake must announce the date of the election between August 27 and October 9. Dissanayake's response to the JHU petition did not tip his hand about the timing of such an announcement--other than to affirm that it would be made within the constitutional parameters.

¶4. (U) The Supreme Court is scheduled to begin deliberations on the JHU case on August 22. While the Constitution gives the Election Commissioner the power to announce the election date, if the Supreme Court decides in favor of the SLFP's counter-claims that the President's second term did not begin until November 2000, the Supreme Court ruling will hold, and elections will likely be postponed until 2006.

¶5. (SBU) COMMENT: Before the JHU petition was filed, the EC shied away from public comment on the controversial question of the President's second term and the date for elections. His response to the JHU petition makes clear that Dissanayake intends to announce elections in the next month or two. It remains to be seen how the Supreme Court--including the President's close personal friend, Chief Justice Sarath N. Silva--is leaning on the issue. END COMMENT.

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